

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

DOUGLAS HANDSHOE

PLAINTIFF

VS.

CIVIL ACTION NO. 1:15cv382HSO-JCG

VAUGHN PERRET, CHARLES LEARY &
DANIEL ABEL, D/B/A TROUT
POINT LODGE LTD OF NOVA SCOTIA
& IN THEIR INDIVIDUAL CAPACITIES
PROGRESS MEDIA GROUP LIMITED,
MARILYN SMULDERS & ASHOKA

DEFENDANTS

RESPONSE IN OPPOSITION TO MOTION TO INTERVENE

COME NOW Defendants **Vaughn Perret** and **Charles Leary**, by and through their counsel, Purvis & Co. PLLC, file this their Response in Opposition to the Motion to Intervene filed by Slabbed New Media, L.L.C., and would show that the Motion is not well taken and should be denied as discussed herein as well as in their memorandum brief in support.

On January 26, 2017, Plaintiff Douglas Handshoe filed his Third Amended Complaint for Damages, Declaratory and Injunctive Relief. On February 15, 2017 defendants Perret and Leary timely filed their Motion to Dismiss Third Amended Complaint. Plaintiff Douglas Handshoe has neither filed a Response to the Motion to Dismiss of Perret and Leary nor has he sought additional time to respond to said Motion.¹ On February 17, 2017 Slabbed New Media, LLC filed its Motion to Intervene more than 15 months after the filing of the original Complaint. Slabbed asserted that it is entitled to intervene pursuant to Fed. R. Civ. P. 24(a) as well as Fed. R. Civ. P. 24(b)(1)(B).

Defendants Perret and Leary are due to be dismissed from this action for the reasons stated

¹ Pursuant to L.U.Civ. R7(b)(4) provides that a “respondent must, within fourteen days after service of movant’s motion and memorandum brief, file a response and memorandum brief in support of the response.” The rule goes on to state, “Failure to timely submit the required motion documents may result in the denial of the motion.”

in their Motion to Dismiss and Memorandum Brief in Support; therefore, Slabbed's Motion should be denied as to these defendants. Additionally, and alternatively, Perret and Leary would show that Slabbed has not made a showing sufficient to justify intervention; therefore, the Motion to Intervene should be denied for the following reasons:

I THE UNDERLYING SUIT IS DUE TO BE DISMISSED FOR LACK OF STANDING

II SLABBED NEW MEDIA, LLC CANNOT ESTABLISH A RIGHT TO INTERVENE UNDER F.R.C.P. 24

- A. Slabbed New Media, L.L.C.'s intervention is not timely under Fed. R. Civ. P. 24(a) or (b), and its intervention is made to vex, annoy, unduly delay, and prejudice the Defendants;
- B. Slabbed New Media, L.L.C. cannot state a viable interest in the subject matter of this litigation; and
- C. The claims alleged by Slabbed will ultimately fail for the same reasons asserted in Leary and Perret's Motion to Dismiss and Memorandum Brief in support thereof.

In support of this Response, the defendants rely upon Exhibit "A" attached hereto, Public Catalog of Copyright. The defendants further incorporate by reference those matters stated in their Memorandum Brief Filed in Support of this Motion. Defendants Leary and Perret respectfully move this Court to deny the Motion to Intervene filed by Slabbed New Media, LLC.

RESPECTFULLY SUBMITTED, this the 3rd day of March, 2017.

VAUGHN PERRET, DEFENDANT
and
CHARLES LEARY, DEFENDANT

BY: PURVIS & CO. PLLC

BY: /s/ Jason B. Purvis
Jason B. Purvis, MSB # 100873

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CERTIFICATE OF SERVICE

I hereby certify that, on March 3, 2017, I caused a true and correct copy of the above and foregoing to be filed utilizing the Court's CM/ECF electronic document filing system, which caused notice of such filing to be delivered to all counsel of record and parties requesting notice, and by United States First Class Mail, postage prepaid, to the following non-ECF participants having appeared in this action:

[none]

/s/ Jason B. Purvis